

FINAL BILL REPORT

HB 1073

C 292 L 07

Synopsis as Enacted

Brief Description: Concerning limited emergency worker volunteer immunity.

Sponsors: By Representatives Schual-Berke, O'Brien, Anderson, Hudgins, Appleton, Green, Rodne, Ormsby, Cody, Dickerson, Morrell, Kenney and Pearson; by request of Military Department.

House Committee on Judiciary

Senate Committee on Government Operations & Elections

Background:

A variety of statutes provide various forms of immunity or indemnity from liability for the actions of certain volunteers, government employees, so-called "good Samaritans," and others. The state's Emergency Management Act (EMA) also provides immunity and indemnity for emergency management workers.

The EMA is administered by the Military Department under the direction of the state's Adjutant General. The EMA requires the state to accept liability for harm caused by acts arising from good faith attempts to comply with the EMA. The state must also indemnify a worker who has been "appointed and regularly enrolled" as an emergency worker or who is an employee of the state or a local government. This indemnification covers both liability the worker may have incurred and injury or damage the worker may have suffered as a result of the worker's good faith compliance with the EMA. The indemnity does not cover acts of a worker that amount to willful misconduct, gross negligence, or bad faith.

In 2006 legislation was enacted that grants immunity from liability for the acts of registered volunteer emergency workers who are retired medical professionals. The immunity covers providing assistance or transportation during an emergency or during approved training. This immunity extends to:

- the volunteer medical worker;
- the volunteer's supervisor or employer;
- any health care facility;
- the owner of property where the volunteer acted;
- all governments; and
- any local entity that registered the volunteer.

The immunity covers acts of a medical volunteer that are:

- without compensation or the expectation of compensation;
- within the scope of the volunteer's duties; and

- under the direction of the volunteer's local registering agency.

Immunity does not extend to a volunteer's acts of gross negligence or willful or wanton misconduct.

Summary:

The indemnity provisions of the EMA are expanded to cover explicitly liability incurred while traveling to or from an emergency or while engaged in or traveling to or from a search and rescue operation or training exercise. The state provides no indemnity for liability that might arise out of actions by a volunteer for which the volunteer himself or herself has immunity.

The volunteer immunity from liability provisions are expanded to cover all volunteer emergency workers, not just medical volunteers. To be covered, a volunteer must be registered with the Military Department or a local emergency management organization. References in the immunity provision that are to medical personnel or facilities in particular are replaced with more general terms. For instance, "any" facility, not just a health care facility, is immune from liability for the negligence of a volunteer. The immunity provision is also expressly extended to cover search and rescue operations and authorized training exercises.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	47	0	

Effective: July 22, 2007